

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ABHINAV BHATNAGAR,

No. C 07-02669 CRB

Plaintiff,

**ORDER RE SUMMARY JUDGMENT  
MOTIONS**

v.

JASON INGRASSIA, et al.,

Defendants.

Now pending before the Court are the parties' motions for summary judgment. After carefully considering the parties' papers, and after holding a hearing, the Court rules as follows:

1. San Ramon's motion for summary judgment is GRANTED. The evidence in the summary judgment record is insufficient to support a finding for plaintiff on the Monell claim, and since San Ramon was never Ingrassia's employer it cannot be vicariously liable for Ingrassia's conduct. San Ramon is immune from liability on plaintiff's state law claims arising from San Ramon's own conduct.

2. Defendants' motion for summary judgment on the false arrest claim is DENIED in light of the dispute as to plaintiff's performance on the field sobriety test and the dispute as to whether the PAS test was performed after plaintiff's arrest.

3. Defendants' motion for summary judgment on the abuse of process claim is GRANTED on the ground that defendants are immune pursuant to Civil Code section 821.6.

1           4.       Contra Costa County's motion for summary judgment on the negligence claim  
2 is GRANTED to the extent plaintiff seeks to hold Contra Costa liable for its own negligence  
3 as Contra Costa has immunity for such liability; the negligence claim may go forward as to  
4 defendant Ingrassia's negligence and Contra Costa's vicarious liability for such negligence.

5           5.       Defendants' motion for summary judgment on the emotional distress claim is  
6 GRANTED to the extent plaintiff seeks to recover damages arising out of his arrest;  
7 however, the claim may go forward with respect to the harassing telephone calls and other  
8 retaliatory/harassing conduct. The nature of the calls and their timing support a reasonable  
9 inference that Ingrassia was responsible for the calls.

10           **IT IS SO ORDERED.**

11  
12 Dated: November 25, 2008



CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE